

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

<b>DAVID WILKERSON,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b>CIVIL NO. 08-cv-658-WDS</b>
	)	
<b>CLEVY KIM, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**MEMORANDUM AND ORDER**

**STIEHL, District Judge:**

Currently pending before the Court are Plaintiff's motion to appoint counsel (Doc. 3) and his motion for service by the U.S. Marshal Service (Doc. 4). By separate Order, the Court has denied Plaintiff's motion to proceed *in forma pauperis* and directed him to pay the full filing fee. If Plaintiff fails to pay the full filing fee within the time allotted, then his complaint will be dismissed.

Because Plaintiff has been denied leave to proceed *in forma pauperis*, appointment of counsel would not be proper under 28 U.S.C. § 1915(e)(1). Furthermore, the Court notes that based on Plaintiff's representation of himself in this case and in prior cases - *see e.g., Wilkerson v. Loftin*, No. 3:07-cv-203-MJR (S.D. Ill.); and *Wilkerson v. Ridgeway*, No. 3:02-cv-213-JLF (S.D. Ill.) - Plaintiff appears to be competent to represent himself at this time. *Pruitt v. Mote*, 503 F.3d647, 854-55 (7<sup>th</sup> Cir. 2007). Therefore, Plaintiff's motion to appoint counsel (Doc. 3) is **DENIED**, without prejudice.

Rule 4(c)(3) provides that the Court must appoint the U.S. Marshal to service process if Plaintiff is granted leave to proceed *in forma pauperis*. As noted above, Plaintiff was not

granted leave to proceed *in forma pauperis* and, therefore, appointment of the U.S. Marshal to serve process is not required. Rule 4(c)(3) still provides that the Court may, in its discretion, order the U.S. Marshal to serve process. Given that Plaintiff has not yet paid the full filing fee in this case and may be that Plaintiff will be unable to prosecute it, Plaintiff's motion to appoint the U.S. Marshall to serve process is premature. Therefore, Plaintiff's motion to appoint the U.S. Marshall is **DENIED**, without prejudice.

**IT IS SO ORDERED.**

**DATED: March 26, 2009.**

**s/ WILLIAM D. STIEHL**  
**DISTRICT JUDGE**